

WATER COUNCIL MEETING

Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

August 11, 2004
9:00 a.m.

Members present: Councilors Bridges, Bradley, Butler, Cowan, DiMarzio, Frost, Funk, Ingham, Patenaude, and Varotsis

Members absent: Councilors Barrett, Dupee, Densberger, Glines, McLeod and Phillips

9:00 a.m. - 9:30 a.m. Closed Session: Water Council/Attorney Anne Edwards
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Chairman Bridges opened the meeting at 9:40 a.m.

1. Approval of Minutes of July 14, 2004 Meeting

A motion was made by Councilor Varotsis to accept the minutes of the July 14, 2004 meeting as presented. The motion was seconded by Councilor Bradley and unanimously voted.

2. Status of Appeals

Michael Sclafani distributed an Appeals Status Report and reviewed pending appeals with the Council.

- **Docket No. 03-10 WC - Appeal of Conservation Law Foundation**
A stay remains in effect on this appeal pending the outcome of a Wetlands Council appeal of a water quality certificate. The Wetlands Council appeal is currently scheduled to be heard on October 26, 2004.
- **Docket No. 03-14 WC - Appeal of Gerald A. Bell**
A stay remains in effect on this appeal pending the resolution of a declaratory judgment action before the Merrimack County Superior Court.
- **Docket No. 04-05 WC - Appeal of Freudenberg-NOK General Partnership**
A stay remains in effect until September 14, 2004.
- **Docket No. 04-14 WC - Appeal of Mark and Marianne Bonaiuto**
This appeal of a Shoreland Protection Act waiver was filed on July 1, 2004 along with a Motion to Waive Procedural Rule Env-WC 203.02 to allow for late filing. Action on the appeal was tabled at the July 14, 2004 Water Council meeting pending an opinion from legal counsel regarding issues of standing.

Councilor DiMarzio made a motion to grant appellants' Motion to Waive Procedural Rule Env-WC 203.02. Councilor Patenaude seconded the motion and it was unanimously voted.

Councilor DiMarzio made a motion to dismiss the appeal for lack of standing by the appellants. Councilor Funk seconded the motion and it was unanimously voted.

- **Docket No. 04-15 WC - Appeal of Town of Nottingham Selectmen**

This is a timely appeal of Large Groundwater Withdrawal Permit Approval No. LGWP 2004-0003 filed on July 30, 2004. On August 4, 2004, Attorney Richard Head filed an appearance on behalf of DES along with a Motion to Dismiss. Attorney Tupper Kinder, on behalf of the appellant, filed an Objection to Motion to Dismiss on August 6, 2004. On August 9, 2004, Attorney Armand Hyatt filed an appearance on behalf of the applicant, USA Springs, Inc., along with a Motion to Dismiss.

Councilor Butler made a motion to table this appeal pending receipt of a written opinion from Council's attorney. Councilor Varotsis seconded the motion and it was unanimously voted.

- **Docket No. 04-16 WC - Appeal of Tourrettes Trust**

On August 2, 2004 an appeal of Administrative Order No. WD-04-012 was filed. The order citing a violation of the Comprehensive Shoreland Protection Act was issued to Tourrettes Trust and was dated July 2, 2004.

Councilor Patenaude made a motion to accept the appeal. Councilor Butler seconded the motion and it was unanimously voted.

3. NH Drinking Water Rules Env-Ws 370 - Readoption; Env-Ws 1500 Amendment
Env-Ws 370 - General Design Standards

Selina Makofsky, Water Supply Engineering Bureau, presented the proposed readoption of Env-Ws 370. In response to questions, Ms. Makofsky explained that the MCLs in the rules are, in most cases, the same levels set by EPA. An exception is MtBE. There are no federal standards for MtBE and the standards used in the rules are based on recommendations set by the New Hampshire Department of Health and Human Services. Ms. Makofsky indicated that Fred McGarry of the Waste Management Division would be able to update the council on the status of MtBE issues at the federal and state level. The councilors were in agreement that an invitation should be extended to Mr. McGarry to meet with the council.

Env-Ws 1500 - Groundwater Discharge Permit and Registration

Ms. Makofsky indicated that Table 1500-1 was changed to add MCLs for uranium and to amend the arsenic standards to conform to recent changes under the Federal Safe Drinking Water Act.

4. Shoreland Protection Act Presentation

Gary Springs, Shoreland Outreach Coordinator of the Wetlands Bureau, presented the Comprehensive Shoreland Protection Act. The CSPA applies to all public waters of the state and includes lakes, ponds, tidal waters, and all Fourth Order (or higher) streams. The purpose of the CSPA is to limit nutrient loading from man-made sources by setting minimum standards for land use within a 250' buffer of protected shoreland.

5. Other Business

Chairman Bridges noted that Councilor David Funk's appointment to the Water Council expires on August 24, 2004. Mr. Bridges commended Dr. Funk for his dedicated service and commitment to advancing the objectives of the Water Council since his appointment in August 1998.

6. Next Meeting

The next meeting will be September 8, 2004.

7. Adjournment

Councilor Varotsis made a motion to adjourn. Councilor Butler seconded the motion and it was unanimously voted.

The meeting adjourned at approximately 11:00 a.m.